

**STATE OF MICHIGAN**  
**COURT OF APPEALS**

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ARTHUR LYNN FISCHER and MARCIA ANN  
FISCHER,

UNPUBLISHED  
August 11, 2000

Plaintiffs-Appellants,

v

No. 213730  
Macomb Circuit Court  
LC No. 93-001951-NP

PRODUCTION TOOL SUPPLY COMPANY,

Defendant/Cross-Plaintiff-Appellee,

and

PYRAMID PLASTICS, INC., d/b/a TOLBERT  
DIVISION,

Defendant/Cross-Defendant-Appellee.

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Before: Murphy, P.J., and Kelly and Talbot, JJ.

PER CURIAM.

Plaintiffs appeal as of right from the trial court's order dismissing the case. We affirm. This appeal is being decided without oral argument pursuant to MCR 7.214(E).

Plaintiff Arthur Fischer injured his hand when it came into contact with a dye he used in the course of his employment. Plaintiffs filed suit, alleging that Pyramid Plastics, Inc., negligently manufactured or labeled the dye, and that Pyramid and Production Tool Supply Company, which sold the dye to his employer, breached their duty to warn of the hazards of the dye. Pyramid moved for summary disposition pursuant to MCR 2.116(C)(10), arguing that the warning label on the dye was sufficient, and that plaintiffs could not establish probable cause because Arthur Fischer could not show that he would have acted differently had the dye label contained other or additional warnings. The trial court granted Pyramid's motion, concluding that no genuine issue of fact existed as to whether the dye was defective or the label thereon was sufficient, and that plaintiffs could not establish that any improper labeling was the proximate cause of Arthur Fischer's injury.

A subsequent order dismissed all claims and cross-claims. Plaintiffs challenge only the order granting summary disposition in favor of Pyramid.

We review a trial court's decision on a motion for summary disposition de novo. *Harrison v Olde Financial Corp*, 225 Mich App 601, 605; 572 NW2d 679 (1997).

Plaintiffs argue that the trial court erred by granting Pyramid's motion for summary disposition. We disagree. Plaintiffs assert that the trial court erred in stating that no evidence showed that the dye itself was defective; however, they do not substantiate their claim. They point to no evidence that showed that the product was negligently manufactured, or that it could have functioned in the same manner with a different formula. Plaintiffs have failed to cite authority to support their position; therefore, this particular argument is waived. *Baker v Wayne County Road Comm'rs*, 185 Mich App 82, 88; 460 NW2d 566 (1990).

Plaintiffs' reliance on *Reeder v Hammond*, 125 Mich App 223, 228; 336 NW2d 3 (1983), for the proposition that the adequacy of any warning is an issue of fact, is misplaced. In that case, another panel of this Court held that the adequacy of a warning given by the manufacturer of a prescription drug to the medical profession regarding risks associated with the drug is an issue of fact. The manufacturer's duty to warn does not extend to patients who use the drug. *Id.* at 226-227. The holding in *Reeder*, *supra*, does not extend to the circumstances of the instant case.

Furthermore, the trial court correctly held that Pyramid was entitled to summary disposition because plaintiffs could not establish that any improper labeling of the dye proximately caused Arthur Fischer's injury. Proximate cause involves the elements of causation in fact and legal cause. The element of causation in fact requires a showing that but for the defendant's actions, the plaintiff's injury would not have occurred. *Skinner v Square D Co*, 445 Mich 153, 162-163; 516 NW2d 475 (1994). Arthur Fischer could not establish that he would have used the product differently had the warning on the dye been more expansive because it was undisputed that he did not read the label. Under such circumstances, proximate cause cannot be established. *Allen v Owens-Corning Fiberglas Corp*, 225 Mich App 397, 406; 571 NW2d 530 (1997). Summary disposition was proper.

Affirmed.

/s/ William B. Murphy

/s/ Michael J. Kelly

/s/ Michael J. Talbot